

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0363 MVE

Motor Vehicle Excise Tax

For The Tax Periods: 1995 through 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Motor Vehicle Excise Tax: Imposition on Persons Attending an Institution of Higher Education

Authority: IC 6-6-5-2, IC 9-18-2-1, IC 9-13-2-78

Taxpayer protests the assessment of motor vehicle excise tax.

STATEMENT OF FACTS

Taxpayer is the owner of a 1993 Pontiac Grand Prix. Taxpayer registered this vehicle in Illinois during the assessment period. In March 1998, he registered the vehicle in Indiana. Taxpayer attended Purdue University as a graduate student during the period of the assessment.

DISCUSSION

IC 6-6-5-2 imposes an excise tax upon motor vehicles. IC 6-6-5-2(a) states that there is imposed an annual license excise tax upon vehicles, which tax shall be in lieu of the ad valorem property tax levied for state or local purposes, but in addition to any registration fees imposed on such vehicles.

Pursuant to Indiana Code section 9-18-2-1, within sixty days of becoming an Indiana resident, a person must register all motor vehicles owned by that person that will be operated in Indiana.

Indiana Code section 9-13-2-78 defines "Indiana resident" as a person who is *one* of the following:

- (1) A person who has been living in Indiana for at least one hundred eighty-three (183) days during a calendar year and who has a legal residence in another state. However, the term does not include a person who has been living in Indiana for any of the following purposes:
 - (A) Attending an institution of higher education.
 - (B) Serving on active duty in the armed forces of the United States.
- (2) A person who is living in Indiana if the person has no other legal residence.
- (3) A person who is registered to vote in Indiana.
- (4) A person who has a child enrolled in an elementary or secondary school located in Indiana.
- (5) A person who has more than one-half (1/2) of the person's gross income derived from sources in Indiana ... However, a person who is considered a resident under this subdivision is not a resident if the person proves by a preponderance of the evidence that the person is not a resident under subdivisions (1) through (4).

Emphasis added.

Taxpayer derived more than one-half (1/2) of his income from sources in Indiana during the years 1995 to 1997. Taxpayer derived this income from his employment as a Graduate Research Assistant at Purdue University. Taxpayer must therefore prove by a preponderance of the evidence that he was not a resident under subsections (1) through (4) of IC 9-13-2-78.

Taxpayer presented evidence of student grade reports and tuition bills that demonstrate that taxpayer was living in Indiana for the purpose of attending an institution of higher education.

Taxpayer presented evidence of student grade reports, tuition bills, and a letter from the Assistant Dean of Purdue University that affirm taxpayer attended Purdue University as an out-of-state student. Taxpayer retained a permanent address in Illinois. Taxpayer considered himself a legal resident of Illinois as evidenced by W-2 forms, student loan documents, bank records, and insurance records, all of which list his address as an Illinois resident. In addition, taxpayer was a guest researcher at University of Lund in Sweden from September of 1996 to October of 1997; during these months his vehicle resided in Illinois at his permanent address. By the preponderance of the evidence, taxpayer retained a legal residence in Illinois.

Taxpayer did not register to vote in Indiana until April 3, 1998. Taxpayer was not registered to vote in Indiana during the assessment period.

Taxpayer does not have any children, thus taxpayer is not a resident of Indiana under IC 9-2-13-78(4).

Taxpayer proves by a preponderance of the evidence that he was not an Indiana resident during the assessment period 1995 through 1997. Taxpayer is now a resident of Indiana and has paid motor vehicle excise tax for 1998.

FINDING

Taxpayer's protest is sustained.